

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	
)	
Interconnection Between Local)	CC Docket No. 95-185
Exchange Carriers and)	
Commercial Mobile Radio)	
Service Providers)	
)	
Equal Access and Interconnection)	CC Docket No. 94-54
Obligations Pertaining to)	
Commercial Mobile Radio Service)	
Providers)	

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COMMENTS OF CMT PARTNERS

Adam A. Andersen
Senior Counsel
CMT Partners
651 Gateway Boulevard, 15th Fl.
South San Francisco, CA 94080
(415) 871-9500

Thomas Gutierrez
Lukas, McGowan, Nace & Gutierrez,
Chartered
Suite 1200
1111 Nineteenth Street, N.W.
Washington, D.C. 20036
(202) 857-3500

March 4, 1996

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COMMENTS OF CMT PARTNERS

CMT Partners ("CMT"),^{1/} by its attorneys and pursuant to Section 1.415 of the Commission's rules, respectfully submits its comments in response to the Notice of Proposed Rulemaking in the captioned proceeding.^{2/} By these comments, CMT voices support for the Commission's proposal for an interim bill and keep interconnection arrangement and presents information in response to the many areas of specific inquiry posed by the Commission in its Notice. CMT also urges that the interim bill and keep arrangement be maintained until such time as the Commission adopts any other

^{1/} CMT is the parent company for four Commission licensees: Bay Area Cellular Telephone Company, Napa Cellular Telephone Company, Cagal Cellular Communications Corporation and Salinas Cellular Telephone Company. Collectively, these entities provide Band A cellular service in the San Francisco, San Jose, Salinas and Santa Rosa, California Metropolitan Statistical Areas.

^{2/} Notice of Proposed Rule Making, CC Docket No. 95-185 and CC Docket No. 94-54, 61 Fed. Reg. 3644 (February 1, 1996) ("Notice").

arrangements that supersede bill and keep, rather than until some date certain.

I. BACKGROUND

A. The Commission's Recognition of the Critical Significance of Interconnection

The Commission has long required local exchange carriers ("LECs") to offer "reasonable" interconnection to Commercial Mobile Radio Service ("CMRS") providers (and their common carrier wireless predecessors) and to provide such interconnection consistent with the principle of mutual compensation.^{3/} But prior to release of the Notice, the Commission had not proposed or specified pricing limitations or required that interconnection agreements be consistent with tariff filings or otherwise be submitted to regulatory agencies.^{4/}

The Commission's specific concerns that led to release of the Notice were several-fold. First was a recognition that its existing policies are not sufficient to properly encourage competition between CMRS providers and LECs in the provision of local exchange service, and a belief that if CMRS providers are to

^{3/} See Implementation of Sections 3(n) and 332 of the communications Act, Regulatory Treatment of Mobile Services, Second Report and Order, 9 FCC Rcd 1411, 1497-98 (1994) ("CMRS Second Report"). In general, the obligation to interconnect flows from the statutory common carrier obligations of LECs "to establish physical connections with other carriers". See 47 U.S.C. §201. See Declaratory Ruling in Report No. CL-379, 2 FCC Rcd 2910 (1987); Memorandum Opinion and Order on Reconsideration in Report No. CL-379 (3/15/89).

^{4/} Notice, at para. 1.

be able to compete directly against LECs, it is critical that pricing, terms and conditions of interconnection not serve as detriments to local exchange competition. Id. In addition, there was an understanding that the ability to interconnect, which has always been the lifeblood of an interconnected mobile system, has become even more critical as telecommunications become provided by independent, interconnected networks. Notice, at para. 5. Finally, the Commission recognized that the availability of interconnection, which the Commission has always required for sophisticated wireless systems, cannot practically be divorced from pricing considerations since overpriced interconnection is the equivalent of no interconnection. Notice, at 10.

B. Cellular Experience with Interconnection

In its Notice, the Commission expressed concern that there has been a wholesale divergence between, on the one hand, the type of CMRS interconnection rights provided in applicable Commission policy statements and, on the other hand, that actually made available to CMRS providers. Notice, at para. 27-28. Thus, to the extent that existing policies were not providing the type of relief sought by the Commission, the Commission contemplated changes in policy as necessary to produce the interconnection results it has long sought. Id.

CMT's interconnection experience mirrors in many respects that of other cellular carriers as reported in the Notice. See, e.g., Notice, at para. 27, reporting on statement provided by Comcast Corporation that mutual compensation is not available to cellular

carriers. CMT has not been afforded mutual compensation for calls that were originated on LEC systems and terminated by CMT. Indeed, rather than be compensated for terminating LEC originated calls, CMT has had to pay for the privilege of termination of such calls. Thus, it has been called upon to pay a double premium.

C. Interconnection Costs and Charges

In its Notice, the Commission tentatively concluded that the marginal cost of interconnection with CMRS systems approaches zero, especially in non-peak usage times. Notice, at para. 60. Moreover, to the extent that there is any marginal cost of interconnection, calculation of such cost is neither straightforward nor susceptible to uncontested results.

CMT's experience is that it has never been able to obtain from LECs definitive cost information for interconnection. Thus, it is not in a position to present empirical data either supporting or disputing the Commission's tentative position. Nevertheless, CMT's review of the Commission's Notice causes CMT to believe that the Commission's tentative conclusions regarding both the marginal cost of interconnection and the complications associated with calculating cost for any particular carrier are well-founded. See Notice, at para. 60-62.

II. ARGUMENT

A. There Is A Need For Immediate Revision Of Interconnection Rules

As noted by CMT above, and by the Commission in its Notice, at para. 27, it is beyond question that there exists a wide

discrepancy between what is provided for in applicable Commission rules and what is available to CMRS providers on an industry-wide basis. This discrepancy exists largely because current Commission rules simply do not prescribe with specificity the tests to be applied to assure that the currently mandated "reasonable interconnection" is actually being offered.

Nor can there be any question but that the effect of the discrepancy is to increase costs of wireless operations and thereby to impede the ability of wireless carriers to compete with LECs -- either in the provision of traditional fixed services or in the provision of appropriate substitutes for such service. See Notice, at 10. While it may be difficult to reach a consensus regarding either the degree to which interconnection is currently overpriced or the precise effect of interconnection overpricing, given the magnitude of interconnection charges that wireless carriers incur today, and the fact that true marginal interconnection costs approach zero, the current state of interconnection pricing is perhaps the foremost factor inhibiting wireless development. To illustrate, for CMT interconnection costs are the largest recurring charge incurred by the company. In 1995, those charges were approximately \$15 million. This is the single largest system operational cost and is about 50 percent higher than billing costs.

While CMT submits that federal interconnection policy has long been in need of revision, current developments within the telecommunications industry cause there to be particularly urgent need to make revisions at this time. While countless landmark

developments have transpired recently and are certainly too extensive to chronicle in detail, the following listing of prominent events should be more than sufficient to demonstrate the vital need for the Commission to revamp interconnection arrangements now:

- The 1993 Omnibus Budget Reconciliation Act mandated an entire new regulatory framework for wireless communications.
- In 1994, the FCC promulgated extensive rules to implement the Budget Act and, in particular, to make possible true regulatory parity, whereby carriers would compete in the marketplace free from unnecessary preferences and restrictions established only in the regulatory arena.
- In 1995, the Commission licensed over 100 broadband MTA licenses and received more than \$7.7 billion in that licensing process.
- Earlier this year, Congress enacted the most comprehensive telecom legislation passed in the last 60 years. That legislation is intended to facilitate genuine competition in those areas where competition is now less than meaningful -- and to commence competition in local loop service, which may be the last bastion of telecommunications monopoly.

In view of these and other truly monumental developments, the Commission is now at a crossroads: it can either revamp interconnection obligations as it has proposed, and thereby vault competition between wired and wireless providers into a new dimension, or it can slow the pace of change by reducing the scope or delaying the timing of changes. CMT submits that the public will be served only if the Commission adheres to the former, more bold course of action.

B. Bill and Keep is a Necessary and Appropriate Interim Interconnection Policy

In its Notice, the Commission proposed to adopt an interim bill and keep arrangement pursuant to which "neither of the interconnecting networks charges the other network for terminating the traffic that originated on the other network, and hence the terminating compensation rate on a usage basis is zero." Notice, at para. 60. Under this arrangement, carriers would not be able to collect for services performed; rather, they would recover from their own end users the cost of both originating traffic delivered to other networks and terminating traffic received from other networks. Id.

CMT concurs with the Commission's belief that its proposal would yield results that are the equivalent of networks charging each other incremental cost-based rates for shared network facilities if the incremental cost of using such facilities is equal to (or approximates) zero for both networks. Notice at 60. See also the Comcast Comments at 14-15, and the associated Brock-Comcast Paper discussed in the Notice.

Equally important, bill and keep arrangements appear to have a multitude of advantages over other possible interim arrangements. This arrangement is administratively simple and does not require the development of any new billing systems.^{5/} It also prevents incumbent LECs with market power from charging higher than

^{5/} See letter of December 8, 1995, from CTIA to the Chief, Common Carrier Bureau submitted as an ex parte presentation in the proceeding.

appropriate interconnection rates in order to discourage competition in the provision of local loop service. Finally, it is economically efficient since actual interconnection costs are so low that there is no meaningful difference between a cost-based rate and the zero-rate included in bill and keep.

C. Implementation and Jurisdictional Matters

For all of the reasons set forth above, CMT urges the Commission to act quickly in adopting an interim interconnection arrangement. Only by so acting can the Commission provide the public with the full benefits made possible by wireless carriers.

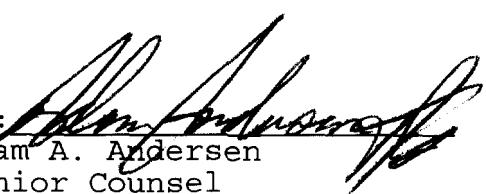
In the event the Commission elects not to adopt a bill and keep arrangement, or delays in adopting any interim arrangement, the Commission should act immediately to require all LEC/CMRS interconnection arrangements to be filed with the Commission. The Commission should also mandate in the absence of interim bill and keep that LECs commence the negotiating reciprocal compensation arrangements within 60 days of release of a decision in this proceeding and complete negotiating within three months. The Commission should also reaffirm that LECs are required to provide equivalent interconnection arrangements to all CMRS carriers. Finally, the Commission should, with specificity, set forth the sanctions that would be applicable to LECs when they chose not to comply with the Commission's interconnection policies and which would provide incentives for full and prompt compliance with such rules.

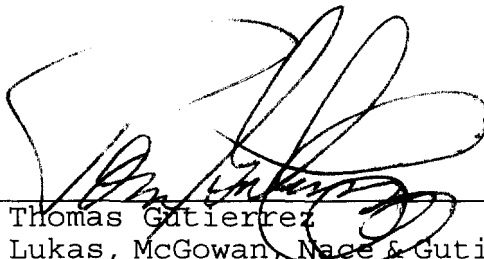
III. CONCLUSION

CMT applauds the Commission for proposing bold action to improve interconnection arrangements between CMRS and LECs. The proposed interim bill and keep arrangements are essential to permit CMRS providers to fulfill their true potential, especially with respect to the provision of service to customers traditionally served only by LECs. The bill and keep arrangement should be adopted and maintained in place until the Commission determines that there may be some more appropriate long-term solution.

Respectfully submitted,

CMT PARTNERS

By: 
Adam A. Andersen
Senior Counsel
CMT Partners
651 Gateway Boulevard, 15th Fl.
South San Francisco, CA 94080
(415) 871-9500

By: 
Thomas Gutierrez
Lukas, McGowan, Nace & Gutierrez,
Chartered
Suite 1200
1111 Nineteenth Street, N.W.
Washington, D.C. 20036
(202) 857-3500

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